

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

MICHAEL LANE

§

v.

§

CIVIL ACTION NO. 6:17cv566

BRYAN COLLIER, ET AL.

§

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Michael Lane, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Lane asserted that he wished to wear a four-inch beard and a Kufi cap. The Magistrate Judge issued a Report recommending dismissal of the lawsuit because Lane is subject to the three-strike bar of 28 U.S.C. §1915(g) and thus cannot proceed *in forma pauperis* unless he shows he was in imminent danger of serious physical injury as of the date of the filing of the lawsuit, a showing which Lane did not make.

Lane received a copy of this Report on March 29, 2019, and filed a motion for extension of time in which to object. This motion was granted and Lane was given until June 28, 2019, in which to file his objections. He received a copy of this order on June 6, 2019, but has filed no objections; accordingly, Lane is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district

court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 17) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the Plaintiff's *in forma pauperis* status is **REVOKED** and the above-styled civil action is **DISMISSED WITH PREJUDICE** as to the refiling of another *in forma pauperis* lawsuit raising the same claims as herein presented, but without prejudice to the refiling of this lawsuit without seeking *in forma pauperis* status and upon payment of the statutory filing fee. It is further

ORDERED that should the Plaintiff pay the full filing fee within 15 days after the date of entry of final judgment in this case, he shall be allowed to proceed in the lawsuit as through the full fee had been paid from the outset. Because Lane is ineligible to proceed *in forma pauperis*, the full filing fee is \$400.00. Payment of the full filing fee will not affect a frivolousness analysis or such other screening as may be appropriate under 28 U.S.C. §1915A. It is further

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

So **ORDERED** and **SIGNED** September 25, 2019.



Ron Clark, Senior District Judge